AUSTRALIAN RAIL TRACK CORPORATION LTD

Ref No:

16 May 2011

Dear Stakeholder

Revised 7 September 2010 Hunter Valley Access Undertaking (2011 HVAU) – Further amendments following industry consultation

In early April 2011, ARTC provided the 2011 HVAU to the ACCC following further consultation with the ACCC and stakeholders after the release of a Position Paper by the ACCC in December 2010.

The ACCC has commenced a public consultation in relation to the 2011 HVAU. During that consultation period ARTC has continued to review a number of key items with the ACCC and key stakeholders representing existing Hunter Valley export coal producers (Existing Export Coal Stakeholders).

Following these consultations, ARTC has drafted amendments to the 2011 HVAU (and associated Indicative Access Holder Agreement) as set out at Attachment 1. These amendments have been drafted by ARTC in response to several concerns expressed by Existing Export Coal Producers. ARTC understands that Existing Export Coal Producers would support the 2011 HVAU, including ARTC's proposed Rate of Return, following ARTC's engagement in further consultation and a satisfactory outcome arising from that consultation. The amendments described in this letter should be considered as a packaged response following that further consultation, and ARTC understands that the package largely addresses the concerns expressed by Existing Export Coal Producers. A brief description of the rationale for the package of amendments is provided below.

This letter is provided to stakeholders in order to inform the ACCC consultation of these alternative proposals and to enable consideration to be given to the package of amendments in completing any submissions to the ACCC. This letter has also been submitted to the ACCC for consultation. The inclusion of these amendments in a revised 2011 HVAU will be considered with reference to stakeholder comments and the level of industry support.

Consistent System Assumptions and Basis of Contractual Entitlements

Existing Export Coal Producers have raised two critical issues as follows.

- The System Assumptions adopted by ARTC in its assessment of Capacity (network capacity) should be consistent with those used by the HVCCC.

- Access Holders contractual entitlements should be limited to the HVCCC assessment of Coal Chain Capacity.

Consistent System Assumptions

The 2011 HVAU requires ARTC to participate in the development of System Assumptions with the HVCCC. ARTC strongly supports the use of System Assumptions as a common reference set for capacity analysis and planning.

The 2011 HVAU and associated Indicative Access Holder Agreement (**IAHA**) both incorporate System Assumptions and include additional assumptions not included in the list of HVCCC agreed assumptions (Systems Assumptions Document), being section run times, train axle load, train speed and train length.

ARTC cannot, however, be in a position where System Assumptions upon which ARTC plans and manages its business in the Hunter Valley can be unilaterally changed by the HVCCC, where ARTC has only a single vote.

ARTC accepts that the requirement for it to agree to any changes to System Assumptions is not desirable to industry and, as such, ARTC proposes the following adjustments to the 2011 HVAU for consideration:

a. Specify the list of System assumptions that are relevant to ARTC's assessment of Capacity (network capacity) as agreed with the HVCCC, being:

   HVCCC Agreed
   - ARTC track including path numbers
   - live run management
   - ARTC system losses
   - maintenance intervention
   - train parking capacity (for shut downs)